IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.1983 of 2006 (O&M)

DATE OF ORDER:

Ms Aasia Begum

...Petitioner(s)

Versus

Sushil Kumar Jindal

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Pawan Kumar, Advocate.

Mr. Sanjay Jain, Advocate.

M.M. AGGARWAL,J

Petitioner Aasia Begum as landlady had filed ejectment petition against the respondent in respect of the shop situated in Maler Kotla on the ground that respondent-tenant had taken the shop only for three months for the period from 10.10.1993 to 31.12.1993. Rate of rent was fixed Rs.1800/- per month. Further Husband of the landlady was totally jobless for the last several years. Petitioner has three daughters and two sons. Two daughters were married and one son was also married but it was very difficult for the petitioner or her husband to run the family having no source of income and therefore petitioner wanted to start her own business by joining her husband. This ejectment petition was opposed on behalf of the respondent-tenant but was allowed by the Rent Controller on the ground that landlady required the premises for bonafide use and occupation. However on an appeal having been filed by the tenant, same was allowed and ejectment petition was dismissed.

On behalf of the petitioner, it was argued that the husband of the petitioner is jobless for many years and the petitioner with her husband wanted to start some business in the shop to earn livelihood. From the statement of RW2 Om Parkash a witness produced by the tenant, it was

argued that even that Om Parkash admitted that husband of the petitioner namely Abdul Latif was just not doing any work. Counsel for the petitioner had relied on judgments reported in Krishan Lal and another v. Harvinder Singh and Another, Vol CXXXIX-(2005-1), 628 and argued that when the landlady states that she and her husband want to start business in the shop then her requirement is bonafide. He relied on another judgment reported in Ashok Narang and another v. Mrs Shanta Anand, Vol CXLII- (2006-1), 730. He further relied on judgment of Hon'ble Supreme Court reported in Raj Kumar Khaitan and others v. Bibi Zubaida Khatun and Another, AIR 95 SC 576 and argued that when the assertion by the landlord was that they are to start business for earning livelihood then it was not even necessary for the landlord to indicate the nature of the business and that need of the landlord is bonafide.

On behalf of the respondent-tenant, it was argued that if the husband of the petitioner was jobless for many years and they (family of landlady) had been pulling on then the desire to get the shop vacated, cannot be called bonafide. Counsel for the respondent relied on judgment reported in Jagat Ram v. Mathra Dass & Another, 1978(2) RCR (Rent) 351 and argued that element of need must be proved and mere statement of landlady on question of bona fide was not sufficient. He relied another judgment of this Court reported in Brij Lal v. Arjan Singh, 1979(2) RCR (Rent) 275 and argued that there must be element of need and not mere desire of landlord.

I find that the appellate authority while dismissing the petitioner has just observed that there was no proper explanation as to how the family was pulling on, till this date even when two daughters and one son had been married meanwhile. It was also observed that the petitioner was a pardanashin lady and could not run any shop and therefore there was no bonafide necessity.

In this case, it had been admitted that the husband of the petitioner is jobless and is not doing any work. Even if the petitioner is pardanashin lady, still the requirement for the husband for starting business in the shop cannot be, in any way, said to be not malafide.

In the facts and circumstances of the case, Rent Controller was justified in allowing ejectment petition. As such, this petition is accepted. Judgment of the appellate Authority is set aside whereas that of Rent

Controller is restored. Respondent shall vacate the premises within a period of two months.

March , 2007 (M.M. AGGARWAL)
manoj JUDGE